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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,720	02/11/2002	Irwin C. Lewis	UCA110005000	5425

7590 09/24/2003  
Paul S. Chirgott  
Graftech International Ltd  
12900 Snow Road  
Parma, OH 44130

EXAMINER

BOSS, WENDY L

ART UNIT	PAPER NUMBER
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1775

DATE MAILED: 09/24/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/073,720

Applicant(s)

LEWIS ET AL.

Examiner

Wendy Boss

Art Unit

1775

-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22 and 26-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-30 and 34-41 is/are allowed.
- 6) ☒ Claim(s) 22 and 31-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 22, 32 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,591,382 (Nahass et al.).

Nahass discloses a carbon body having a substantially homogenous distribution of carbon fibers dispersed within the carbon body as substantially single mono-filaments which are randomly oriented (see column 6, lines 12-47). The reference further discloses that the carbon fibers are present in an amount of 0.25-50 wt.% (see column 5, lines 40-67), which encompasses applicants' claimed range. It is also disclosed by Nahass that the diameter of the carbon fibers is 35  $\mu\text{m}$  or less (see column 18, lines 65-67), which encompasses applicants' diameter range.

The reference does not necessarily disclose that the carbon body is carbonized after the fibers are dispersed therein; however, patentability of an article depends on the article itself and not the method used to produce it (see MPEP 2113).

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,591,382 (Nahass et al.).

Nahass discloses a carbon body as shown above in paragraph number 5. The reference does not disclose the longitudinal coefficient of thermal expansion of the carbon body; however, it is within the level of one having ordinary skill in the art to determine such a property.

***Response to Arguments***

5. Applicant's arguments filed June 26, 2003 have been fully considered but they are not persuasive. The applicant argues that the amendments to the claims overcome the rejection based on Nahass, because the reference fails to disclose that the carbon body is carbonized after the carbon fibers are dispersed therein. It is the examiner's position that the reference still applies because patentability of an article depends on the article itself and not the method used to produce it (see MPEP 2113).

***Allowable Subject Matter***

6. Claims 26-30 and 34-41 are allowed.

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7. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose a graphite body having a substantially homogeneous distribution of carbon fibers dispersed within the graphite body as substantially mono-filaments of a random orientation, the carbon fibers present in amount of about 1.5 wt.% to about 3.0 wt.% based on a weight of the graphite body.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wendy Boss whose telephone number is 703-306-5922. The examiner can normally be reached on M-Th 8:30a-6:00p; 2nd F 8:30a-5:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 703-308-3822.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Wendy Boss  
September 22, 2003

  
DEBORAH JONES  
SUPERVISORY PATENT EXAMINER